

UPDATED  
APRIL 12, 2010

## **PUBLIC SANCTIONS**

**FY 2010**

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### **BEFORE THE STATE COMMISSION ON JUDICIAL CONDUCT**

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**CJC Nos. 07-0269-JP, 08-0901-JP, AND 09-0148-JP**

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## **PUBLIC ADMONITION**

**HONORABLE THOMAS G. JONES  
JUSTICE OF THE PEACE, PRECINCT 1, PLACE 1  
DALLAS, DALLAS COUNTY, TEXAS**

During its meeting on August 11-13, 2009, the State Commission on Judicial Conduct concluded a review of allegations against the Honorable Thomas G. Jones, Justice of the Peace for Precinct 1, Place 1, in Dallas, Dallas County, Texas. Judge Jones was advised by letter of the Commission's concerns and provided written responses. Judge Jones appeared with counsel before the Commission in April 2007, December 2007, and August 2009, and gave testimony. After considering the evidence before it, the Commission entered the following Findings and Conclusion:

### **BACKGROUND INFORMATION**

Judge Thomas G. Jones began his service as Justice of the Peace in 1991. Since 2006, his court has become one of the busiest in the State, receiving well over 100,000 new cases annually. With a staff of between eighteen (18) and twenty-one (21) clerks employed during this period, Judge Jones typically disposed of approximately 48% of his caseload each year.

During this time, Dallas County created the J.P. Central Collection Center, which was set up to process citations generated by law enforcement officers carrying hand-held devices that would electronically file citations issued in the field with the Collection Center through a program known as "Autocite." Six justice of the peace courts, including Judge Jones' court, authorized the Collection Center to handle these Autocite citations by processing payments, sending correspondence, accepting pleas, and administering the Driving Safety Course. Citations that were not paid were eventually forwarded to the courts by the Collection Center. Problems soon arose as a result of the program. The large volume of citations issued through Autocite resulted in enormous backlogs. Warrants on outstanding citations in the Autocite program fell behind. In late 2007, the Collection Center was still in the process of issuing warrants on nearly 30,000 citations issued in 2006. By 2007, Judge Jones had received more than 8,000 old Autocite cases, and when the Collection Center was closed in 2008, his court received more than 150,000 cases just in one day.

Starting in October 2005, the Commission began receiving and investigating numerous complaints alleging that cases filed in Judge Jones' court were being mishandled and neglected by the judge and his staff. Over the next few years, the Commission would investigate more than twenty-six (26) cases filed against Judge Jones by litigants and judges, all of whom claimed that in their dealings with Judge Jones' court, they encountered long delays, poor customer service, rude and discourteous demeanor, and a lack of professional competence, supervision, and training.

After Judge Jones appeared before the Commission in April 2007 to discuss these concerns, the Commission offered to assist the judge in obtaining training for his staff and offered to provide a mentor judge to assist Judge Jones in identifying and addressing problem areas that needed immediate attention. In the Fall of 2007, a mentor judge (the "Mentor") met with Judge Jones and his staff, observed the court's operations, and made numerous recommendations for improving Judge Jones' court operations. Unfortunately, when Judge Jones appeared before the Commission a second time, in December 2007, he was unable to provide the Commission with any assurances that the areas of concern raised in the complaints, as well as in the Mentor's report, would be appropriately addressed. As a result, the Commission voted to initiate formal proceedings against Judge Jones. In November 2008, the Commission filed its Notice of Formal Proceedings and charged Judge Jones with various violations of the Code of Judicial Conduct relating to the alleged mishandling of numerous cases in his court. Judge Jones filed a verified Answer to the Notice in February 2009.

During the period following the December 2007 hearing before the Commission and the filing of the Notice of Formal Proceedings, the problems involving the judge and his court operations were the subject of several critical media stories. During this time, Judge Jones began to actively take steps to improve the court's processes and procedures. In addition, Dallas County stepped in to provide assistance, including budget and staffing increases. In the Summer of 2008, Dallas County closed the J.P. Central Collection Center. The County's Human Resources Department performed an audit of the judge's court staff training, supervision, and operations and identified numerous areas where changes were needed. According to the judge and others involved in the process, numerous improvements had already taken place during this time, and others were in the process of coming to fruition.

As a result of representations regarding the work already completed and the efforts currently underway at the court, the Commission met a third time with Judge Jones in August 2009. During this hearing, Judge Jones acknowledged the problems in his court, including the fact that his staff needed more training and more supervision. Judge Jones also admitted that he was ultimately responsible for making sure his court staff was properly trained and supervised.

The judge assured the Commission that he would continue to take the appropriate steps necessary to ensure that litigants and others with whom he and his staff dealt with in an official capacity were treated with the proper courtesy, patience, respect and competency. As a result of the evidence introduced at the August hearing, most of the twenty-six (26) cases pending against the judge were dismissed. The remaining issues are addressed below.

### **FINDINGS OF FACT**

1. At all times relevant hereto, the Honorable Thomas G. Jones was Justice of the Peace for Precinct 1, Place 1, in Dallas, Dallas County, Texas.

### **CJC No. 07-0269-JP**

2. In August of 2003, Complainant was arrested in Parker County on warrants issued out of Dallas County for failure to appear to resolve two traffic citations.
3. Complainant appeared before a Parker County Justice of the Peace and entered a plea of guilty to the charges.
4. Complainant's fine was satisfied by serving time in the Parker County jail.
5. Although the Parker County Justice of the Peace timely forwarded the appropriate paperwork to Judge Jones' court for processing, a data entry error made by a court clerk prevented Complainant's warrants from being recalled and the cases were never properly disposed.
6. In 2005, Complainant was unable to renew his driver's license because Judge Jones' court had failed to properly enter the out-of-county plea information received from Parker County.
7. Attempts by Parker County officials and by Complainant to resolve the problem with Judge Jones' court staff proved to be unsuccessful. According to Complainant, he was treated rudely by court staff, who told him to stop calling, placed him on hold for long periods of time, or hung up on him.
8. In a December 2007 report to the Commission, the Mentor wrote of his experience in attempting to contact Judge Jones' court by telephone. According to the Mentor, who also heard reports from witnesses that calls would be answered and immediately hung up, or that callers were being placed on hold for inordinate amounts of time, or that it was impossible to speak to a live person after attempting to navigate through the endless loop of menu options prompted by the court's automated phone system, "phone service to the court was virtually non-existent."
9. The Mentor also observed that Judge Jones' staff appeared to be willing and eager to learn, but was untrained, overworked, inadequately supervised, and forced to operate in a small, inefficient work space.
10. The Mentor went on to describe instances where he observed judgments and other court papers that had been incorrectly prepared by court staff, who used the judge's signature stamp without first verifying that the information contained in the documents accurately reflected the judge's rulings.
11. In his testimony before the Commission, Judge Jones acknowledged the serious problem of repeated instances of "clerk errors" and poor demeanor demonstrated by poorly trained and inadequately supervised court staff.

12. Judge Jones testified that he was taking a more active role in the training and supervision of his court staff, and had implemented several new procedures aimed at addressing the problems raised by these complaints and preventing similar instances from occurring again.
13. Judge Jones also acknowledged that there could be serious consequences for a litigant as a result of “clerk errors.” For example, an individual could be arrested and jailed as a result of outstanding warrants still showing as active in the computer system. Additionally, the name of the litigant could be posted on the Dallas County “Wanted” website, which identifies individuals who owe fines and court costs to the County.

#### **CJC No. 08-0901-JP**

14. In 2008, Complainant was cited by Dallas Area Rapid Transit (“DART”) officers for improperly obtaining a reduced student fare.
15. At her June 23, 2008 appearance before Judge Jones, Complainant observed that the judge “acted like a game show host,” by making statements such as, “I’m cutting deals with you today!” and “if you have 2 or more traffic tickets I can dismiss one.”
16. During an earlier visit to Judge Jones’ court in 2007, the Mentor observed that Judge Jones improperly assumed the role of prosecutor by negotiating with defendants who had appeared before the court to resolve their cases.
17. According to the Mentor, Judge Jones told defendants, “Today is your lucky day,” then proceeded to negotiate dismissals in some cases, deferred dispositions in other cases, and did so without the involvement of the prosecutor.
18. Judge Jones denied that he acted like a “game show host,” or improperly dismissed cases without the consent of the prosecutor.

#### **CJC No. 09-0148-JP**

19. According to the Rules of Judicial Education promulgated by the Texas Court of Criminal Appeals, as a Justice of the Peace, Judge Jones is required to obtain at least twenty (20) hours of judicial education each year.
20. In the 2008 academic year (September 1, 2007 through August 31, 2008), Judge Jones failed to obtain the required judicial education and was not granted a waiver of this requirement.
21. Judge Jones does not dispute that he failed to obtain the required education in 2008.
22. According to Judge Jones, he was unable to obtain the training due to the increased caseload being handled by his court and because of the time he needed to spend taking his wife to cancer treatments.
23. Judge Jones testified that he attended two 20-hour programs the following year, one at his own expense, in order to make up for the failure to obtain the training in 2008.

#### **RELEVANT STANDARD**

Article V, sec. 1-a(6)A of the Texas Constitution provides that any judge may be disciplined or removed from office for incompetence in performing the duties of the office or willful or persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or administration of justice.

## CONCLUSION

The Commission concludes, based on the facts and evidence before it, that Judge Jones owes a duty to the public to ensure that his court staff is properly trained and adequately supervised; that cases filed in his court are handled competently and professionally; that paperwork prepared or handled by his court staff is accurate and reflects the correct disposition of the matters addressed therein; and that proper procedures are followed at all times so that the public maintains confidence in the judiciary and in the proper administration of justice. Judge Jones also owes a duty to the public to demonstrate professional competence in the law by obtaining the required number of hours of judicial education each year. The Commission concludes that Judge Jones' conduct in the above-described matters constituted incompetence in performing the duties of his office, in violation of Article V, sec. 1-a(6)A of the Texas Constitution. The Commission further concludes that by failing to timely address the Commission's concerns until after the Commission and the media brought public attention to the problems of his court, Judge Jones demonstrated persistent conduct that was clearly inconsistent with the proper performance of his duties and cast public discredit upon the judiciary or administration of justice in violation of Article V, sec. 1-a(6)A of the Texas Constitution.

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In condemnation of the conduct described above that violated Article V, sec. 1-a(6)A of the Texas Constitution, it is the Commission's decision to issue a **PUBLIC ADMONITION** to the Honorable Thomas G. Jones, Justice of the Peace for Precinct 1, Place 1, Dallas, Dallas County, Texas.

Pursuant to the authority contained in Article V, §1-a(8) of the Texas Constitution, it is ordered that the actions described above be made the subject of a **PUBLIC ADMONITION** by the Commission.

The Commission has taken this action in a continuing effort to protect public confidence in the judicial system and to assist the state's judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this the 9<sup>th</sup> day of **September, 2009**.

### ORIGINAL SIGNED BY

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Honorable Sid Harle, Chair  
State Commission on Judicial Conduct



**BEFORE THE  
STATE COMMISSION ON JUDICIAL CONDUCT**

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CJC Nos. 08-0908-JP, 09-0306-JP & 09-0731-JP

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**PUBLIC ADMONITION  
AND  
ORDER OF ADDITIONAL EDUCATION**

**HONORABLE CESAR PEREZ  
JUSTICE OF THE PEACE, PRECINCT 2  
EAGLE PASS, MAVERICK COUNTY, TEXAS**

During its meeting on December 9-11, 2009, the State Commission on Judicial Conduct concluded a review of the allegations against the Honorable Cesar Perez, Justice of the Peace, Precinct 2, Eagle Pass, Maverick County, Texas. Judge Perez was advised by letter of the Commission's concerns and provided written responses. Judge Perez appeared with counsel before the Commission on October 14, 2009, and gave testimony. After considering the evidence before it, the Commission entered the following Findings and Conclusions.

**FINDINGS OF FACT**

1. At all times relevant hereto, the Honorable Cesar Perez was Justice of the Peace for Precinct 2 in Eagle Pass, Maverick County, Texas.

**CJC No. 08-0908-JP**

2. On March 18, 2008, Patricia Martinez ("Martinez") filed a small claims suit in Judge Perez's court against Gloria Garcia ("Garcia") for damages allegedly caused to her vehicle by Garcia's son.
3. On May 12, 2008, Judge Perez issued a citation commanding Garcia to appear and/or file a written answer in his court by May 21, 2008.

4. On May 19, 2008, a constable returned the citation to Judge Perez's court, noting that he had been unable to personally serve Garcia and had instead posted the citation on Garcia's door that same day.
5. On May 21, 2008, Garcia appeared in court, but Martinez did not.
6. Judge Perez's clerk subsequently telephoned Martinez to find out why she had failed to appear for the hearing. Martinez advised the clerk that she had not received notice of the hearing and asked her to reschedule the trial for the following day.
7. Judge Perez's clerk then advised both parties by telephone that they were to appear for a hearing two days later, on May 23, 2008. However, Garcia advised the clerk that she might not be able to attend the hearing because she had to work that day.
8. The judge thereafter signed an undated trial setting notice, stating that he had set the case for hearing on May 23, 2008, and that he was sending a copy of the notice to both parties.
9. On May 23, 2008, Martinez appeared for the hearing, but Garcia did not.
10. On that date, Judge Perez signed a default judgment in Martinez's favor, awarding damages in the amount of \$404.12.
11. Judge Perez's clerk subsequently telephoned Garcia to find out why she had not appeared for the hearing, and Garcia told her that she had not been able to leave work that day.
12. On June 4, 2008, Judge Perez's clerk called both parties and notified them of yet another hearing scheduled for June 10, 2008 at 1:30 p.m.
13. According to Martinez, when she learned that Judge Perez had set a new trial date in her case, she believed that he had done so as the result of an improper *ex parte* communication with Garcia, and she further believed that Garcia must have been in a special position to influence Judge Perez.
14. Judge Perez testified during his informal appearance that he did not recall vacating the initial default judgment in the case, and he further could not recall why a second hearing was held.
15. He acknowledged, however, that court records revealed that a second trial was held on June 16, 2008, and that he thereafter entered a second judgment in favor of Martinez, again awarding her damages in the amount of \$404.12.

### **CJC No. 09-0306-JP**

16. On December 5, 2007, Judge Perez met in his office with Martha Chacon, the former Maverick County Justice of the Peace for Precinct Two, and her adult son, Adrian Chacon ("Adrian"), to discuss a traffic ticket that Adrian had received, which was pending in the court of Kinney County Justice of the Peace Narce Villarreal.
17. According to Judge Villarreal and her former court clerk, Patricia Hidalgo ("Hidalgo"), Judge Perez telephoned their office and advised Hidalgo that he wished to speak with Judge Villarreal about Adrian's case.
18. After Hidalgo informed Judge Perez that Judge Villarreal was unavailable, Judge Perez began discussing Adrian's case with Hidalgo.
19. According to Hidalgo, Judge Perez advised her that Adrian was trying to enlist with the Border Patrol and "did not need this ticket" on his record. Judge Perez then asked Hidalgo if Judge Villarreal would either grant deferred disposition or dismiss the ticket.

20. According to Judge Villarreal, this was not the first time that Judge Perez had contacted her office attempting to obtain favorable treatment on behalf of a friend or family member.
21. Judge Perez acknowledged that he met with the Chacons in his court office on December 5, 2007 to discuss Adrian's traffic ticket, explaining that the Chacons came to him seeking "guidance" on how to handle the matter. According to Judge Perez, however, the Chacons did not tell him what type of ticket Adrian had received and did not give him any information regarding the procedural posture of the case.
22. According to Judge Perez, the Chacons informed him that they had been unsuccessfully trying to schedule a "meeting" with Judge Villarreal regarding Adrian's ticket, but did not tell him what type of meeting they were attempting to schedule.
23. Judge Perez acknowledged that he contacted Judge Villarreal's office on the Chacons' behalf from his court office, and spoke with a member of Judge Villarreal's court staff in an attempt to schedule a meeting between the Chacons and Judge Villarreal.
24. According to Judge Perez, he did not call Judge Villarreal's office "in [his] capacity as a justice of the peace," and was instead "merely assisting a family that was having difficulty in scheduling a meeting with Judge Villarreal."
25. Judge Perez acknowledged, however, that he did identify himself as a judge when he spoke with Judge Villarreal's court staff.

### **CJC No. 09-0731-JP**

26. On or about November 12, 2008, John Bowles ("Bowles") filed a small claims lawsuit against Hugo Buentello ("Buentello"), seeking \$6,000 in damages in compensation for a trailer that Buentello had allegedly borrowed from him and failed to return.
27. Judge Perez conducted a trial in the matter on February 24, 2009, after which he issued a judgment ordering Buentello to return the trailer to Bowles. The judgment did not provide for any monetary damages, and did not place a monetary value on the trailer.
28. On April 2, 2009, Judge Perez issued a writ of execution, in which he authorized the constable or sheriff to seize the trailer on Bowles' behalf, pursuant to his judgment.
29. The writ of execution also stated that if the trailer could not be found, the constable or sheriff had the authority to seize other personal property equivalent to the value of the trailer from Buentello; the writ, however, failed to specify the value of said trailer.
30. Bowles thereafter appeared on Buentello's property, along with a Maverick County Deputy Sheriff, attempting to execute on the judgment. Bowles' attorney, believing that the judgment was void, contacted the Maverick County Attorney's office, who apparently advised the deputy to refrain from the execution.
31. Although it is not entirely clear how this matter came to Judge Perez's attention, on April 16, 2009, Judge Perez issued an "amended" judgment, in which he again ordered the trailer returned to Bowles, but added an award of monetary damages to Bowles in the amount of \$6,000, together with 10% interest.
32. According to Judge Perez, he amended the judgment in an attempt to render it in compliance with Rule 560 of the Texas Rules of Civil Procedure, which provides that:  

"Where the judgment is for the recovery of specific articles, their value must be separately assessed, and the judgment shall be that the plaintiff recover

such specific articles, if they can be found, and if not, then their value as assessed with interest thereon at the rate of six per cent from the date of judgment.”

33. Judge Perez stated that he consulted with the county attorney before doing so, and was advised to amend the judgment in this fashion.
34. Judge Perez acknowledged that he did not notify either of the parties prior to amending the judgment.
35. Judge Perez was unable to cite to any authority that would allow him to *sua sponte* amend his original judgment more than seven (7) weeks after its initial entry.

### RELEVANT STANDARDS

1. Canon 2A of the Texas Code of Judicial Conduct states, in pertinent part: “A judge shall comply with the law....”
2. Canon 2B of the Texas Code of Judicial Conduct states, in pertinent part: “A judge shall not use the prestige of judicial office to advance the private interest of the judge or others.”
3. Canon 3B(2) of the Texas Code of Judicial Conduct states, in pertinent part: “A judge . . . shall maintain professional competence in [the law].”

### CONCLUSION

The Commission concludes from the facts and evidence presented in CJC No. 08-0908-JP, that Judge Perez failed to follow the law and failed to maintain professional competence in the law, in violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct, by: (a) issuing a citation affording the defendant less than ten (10) days to answer the suit and/or appear for trial; (b) failing to provide adequate notice of any trial settings to either party; and (c) holding a second trial after a default judgment had already been entered based solely on an oral request from the defendant.

The Commission also concludes from the facts and evidence presented in CJC No. 09-0306-JP, that Judge Perez lent the prestige of his judicial office in an attempt to advance the private interests of Adrian Chacon, in violation of Canon 2B of the Texas Code of Judicial Conduct, by contacting Judge Narce Villarreal’s office in an effort to persuade the judge, through her court staff, to provide a favorable resolution to Adrian’s pending traffic citation.

The Commission further concludes from the facts and evidence presented in CJC No. 09-0731-JP, that Judge Perez failed to follow the law and failed to maintain professional competence in the law, in violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct, by: (a) issuing a final judgment and a writ of execution in a small claims proceeding for the return of property, in violation of Chapter 28 of the Texas Government Code; and (b) issuing an amended judgment on his own motion and without notice to the parties, well after his court had lost jurisdiction over the matter.

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In condemnation of the conduct described above that violated Canons 2A, 2B, and 3B(2) of the Texas Code of Judicial Conduct, it is the Commission’s decision to issue a **PUBLIC ADMONITION AND ORDER OF ADDITIONAL EDUCATION** to the Honorable Cesar Perez, Justice of the Peace, Precinct 2, Eagle Pass, Maverick County, Texas.

Pursuant to this Order, Judge Perez must obtain **five (5) hours** of instruction with a mentor, in addition to his required judicial education. In particular, the Commission desires that Judge Perez receive this additional education in the area of procedures to be followed in civil cases and in small claims cases in particular.

Judge Perez shall complete the additional **five (5) hours** of instruction recited above within **sixty (60) days** from the date of written notification of the assignment of a mentor. It is Judge Perez's responsibility to contact the assigned mentor and schedule the additional education.

Upon the completion of the **five (5) hours** of instruction described herein, Judge Perez shall sign and return the Respondent Judge Survey indicating compliance with this Order. Failure to complete, or report the completion of, the required additional education in a timely manner may result in further Commission action.

Pursuant to the authority contained in Article V, §1-a(8) of the Texas Constitution, it is ordered that the actions described above be made the subject of a **PUBLIC ADMONITION AND ORDER OF ADDITIONAL EDUCATION** by the Commission.

The Commission has taken this action in a continuing effort to protect public confidence in the judicial system and to assist the state's judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this \_\_17th\_\_ day of December, 2009.

**ORIGINAL SIGNED BY**

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Honorable Jorge C. Rangel, Chair  
State Commission on Judicial Conduct



**BEFORE THE  
STATE COMMISSION ON JUDICIAL CONDUCT**

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**CJC No. 08-0797-CC**

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**PUBLIC ADMONITION**

**HONORABLE MONICA GUERRERO  
COUNTY COURT AT LAW No. 7  
SAN ANTONIO, BEXAR COUNTY, TEXAS**

During its meeting on February 17-19, 2010, the State Commission on Judicial Conduct concluded a review of the allegations against the Honorable Monica Guerrero, Judge of the County Court at Law No. 7, in San Antonio, Bexar County, Texas. Judge Guerrero was advised by letter of the Commission's concerns and provided a written response. Judge Guerrero appeared with counsel before the Commission on August 13, 2009 and again on February 17, 2010, and gave testimony. After considering the evidence before it, the Commission entered the following Findings and Conclusions:

**BACKGROUND INFORMATION**

In 2008, the Commission received and investigated a complaint from an anonymous source that alleged numerous incidents of misconduct against Judge Guerrero. Among the allegations were claims that Judge Guerrero (a) received stolen Southwest Airline travel vouchers from her bailiff, James Jackson; (b) accepted free tickets to San Antonio Spurs basketball games from lawyers and/or bail bondsmen; (c) accepted a patio built at her residence as a gift from two attorneys; and (d) made a false loan application to obtain a construction loan for \$15,000, but used the proceeds for personal expenses and a vacation instead of paying for the patio construction.

With regard to the allegations concerning the judge's purchase or receipt of stolen Southwest Airline travel vouchers, the Commission found no credible evidence that Judge Guerrero knew at the time she received the vouchers that her bailiff, James Jackson, and his wife, had stolen them and were engaged in a scheme to sell large quantities of these travel vouchers. According to the judge, she trusted Jackson and assumed the vouchers had been acquired lawfully by Jackson's wife, who was employed by Southwest Airlines. The judge stated that she did not notice the "Not For Resale" statement on the face of the vouchers she received

from Jackson. Finally, there was no credible evidence that Jackson ever told the judge that the vouchers were stolen or instructed her not to tell anyone that she had purchased the vouchers.

With regard to the allegations surrounding who did or did not pay for the construction of the patio and whether the judge procured a construction loan under false pretences, the Commission was unable to find sufficient credible evidence to support a violation of the Texas Code of Judicial Conduct. The Commission's efforts to investigate this claim were compromised and undermined by several factors: (1) the incident in question occurred in 2003; (2) the memory of some witnesses was, at best, faulty due to the lapse of time; (3) receipts and other records could no longer be located or had been destroyed; (4) at least one key witness could not be found; (5) at least one witness was reluctant to cooperate with the investigation; (6) several witnesses provided conflicting accounts of what transpired and/or changed their testimony when questioned in detail; and (7) the judge's own explanation for what transpired was not credible. These obstacles proved difficult to overcome and, as a result, caused considerable delays in resolving the matter against the judge.

The remaining claim concerning the gift of Spurs tickets was found to have merit. In addition, in the course of its investigation the Commission received information concerning a letter of recommendation written by the judge on behalf of a close, personal friend. Both of these issues are addressed more fully below:

## **FINDINGS OF FACT**

1. At all times relevant hereto, the Honorable Monica Guerrero was Judge of the County Court at Law No. 7, in San Antonio, Bexar County, Texas.

### **The Spurs Tickets**

2. On at least one occasion, Judge Guerrero accepted a free ticket to attend a San Antonio Spurs basketball game.
3. The ticket, valued at approximately \$230, came from an attorney who wrote bail bonds and/or practiced in the judge's court. The donor did not accompany the judge to the game.
4. On several occasions, the same attorney allowed Judge Guerrero to sit in his reserved seats when he was not attending the games.
5. According to Judge Guerrero, the reserved seats in question were "premium" seats, located very close to the floor and behind the visiting teams' bench.
6. The judge's attendance at the Spurs' games as a guest of the attorney/bail bondsman was reported by a local television news station, where the propriety of this conduct was questioned.

### **The Letter of Recommendation**

7. On or about March 11, 2005, Judge Guerrero wrote a letter to the Board of American Registry of Radiologic Technologists ("ARRT") on behalf of someone with whom she had a close, personal relationship. According to the judge, the purpose of the letter was to assist the applicant in her efforts to become board certified in this field.
8. In the letter, Judge Guerrero praised the applicant's qualifications and attributes, and recommended her acceptance into that organization. The judge's explanation that she had "known [the applicant] for over five years" was the sole basis for her having personal knowledge of this information.

9. After disclosing in the letter that the applicant had a “[criminal] case pending in court,” Judge Guerrero assured the ARRT that she was “confident” the applicant would be “vindicated” and that “her reputation will be restored.” Judge Guerrero provided no insight as to the basis for this optimistic forecast, nor did she clarify that the case was not pending in her court.
10. The letter was signed, “Monica E. Guerrero, Judge, County Court at Law #7.”
11. In her testimony before the Commission, Judge Guerrero claimed that although she did sign the March 11, 2005 letter, she did not write it. She further claimed that she only agreed to sign it “under duress,” a claim the Commission rejected.
12. The judge went on to suggest that because she merely edited the letter for grammar and punctuation, she was not responsible for its contents or the impression it may have given the ARRT. The Commission rejected this claim as well.

### **RELEVANT STANDARDS**

1. Article V, section 1-a(6)A of the Texas Constitution provides that a judge may be disciplined for willful or persistent conduct that is inconsistent with the proper performance of a judge’s duties or casts public discredit on the judiciary or the administration of justice.
2. Canon 2A of the Texas Code of Judicial Conduct states: “A judge shall comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.”
3. Canon 2B of the Texas Code of Judicial Conduct states, in pertinent part: “A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others.”
4. Canon 4A(1) of the Texas Code of Judicial Conduct states, in pertinent part: “A judge shall conduct all of the judge’s extra-judicial activities so that they do not cast reasonable doubt on the judge’s capacity to act impartially as a judge.”
5. Canon 4D(4)(c) of the Texas Code of Judicial Conduct states, in pertinent part: “Neither a judge nor a family member residing in the judge’s household shall accept a gift, bequest, favor, or loan from anyone except...the donor is not a party or person whose interests have come or are likely to come before the judge.”

### **CONCLUSIONS**

The Commission concludes, based on the facts and evidence before it, that Judge Guerrero failed to comply with the law by accepting a valuable gift from a person whose interests did, and were likely to come before her court, when she attended San Antonio Spurs basketball games as the guest of an attorney/bail bondsman who practiced before her court. Because the propriety of her attendance at the basketball games as the guest of the attorney became a matter of public discussion, the public perception was that the judge’s impartiality could reasonably be questioned when/if that attorney’s clients were to appear before her.

With regard to the letter of recommendation, the Commission concludes that the judge went well beyond the scope of generally praising the qualifications of the applicant into an improper discussion of a criminal charge pending against the applicant. Clearly, the DWI charge was perceived as an obstacle to obtaining board certification. Judge Guerrero’s statements suggested that she had unique insight, or perhaps was privy to “inside” information, regarding the outcome of the case as a result of her position. It also suggested that the applicant was in a position to influence the judge in connection with the disposition of that case.

A judge must conduct all extra-judicial activities so that she not only is impartial, but *appears* to be impartial, while performing her judicial functions. Accepting valuable gifts from attorneys and/or persons with interests before the court, and writing letters of recommendation for a person against whom a criminal case is pending, are actions that severely compromise the public's confidence in a judge's impartiality, independence and integrity, and cast discredit on the judiciary as a whole. The Commission concludes that Judge Guerrero's conduct as described above constituted willful and/or persistent violations of Canons 2A, 2B, 4A and 4D(4) of the Texas Code of Judicial Conduct, and Article V, section 1-a(6)A of the Texas Constitution.

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In condemnation of the conduct described above that violated Canons 2A, 2B, 4A, and 4D(4) of the Texas Code of Judicial Conduct, and Article V, section 1-a(6)A of the Texas Constitution, it is the Commission's decision to issue a **PUBLIC ADMONITION** to the Honorable Monica Guerrero, Judge of the County Court at Law No. 7, in San Antonio, Bexar County, Texas.

Pursuant to the authority contained in Article V, § 1-a(8) of the Texas Constitution, it is ordered that the conduct described above be made the subject of a **PUBLIC ADMONITION** by the State Commission on Judicial Conduct.

The Commission takes this action in a continuing effort to protect public confidence in the judicial system, and to assist the state judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Code of Judicial Conduct.

Issued this 26th day of March, 2010.

**ORIGINAL SIGNED BY**

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Honorable Jorge C. Rangel, Chair  
State Commission on Judicial Conduct



**BEFORE THE  
STATE COMMISSION ON JUDICIAL CONDUCT**

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**CJC Nos. 09-0413-RT, 09-0488-RT, 09-0489-RT, 09-0637-RT**

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**PUBLIC ADMONITION**

**HONORABLE W. JEANNE MEURER  
RETIRED DISTRICT COURT JUDGE  
AUSTIN, TRAVIS COUNTY, TEXAS**

During its meeting on February 17-19, 2010, the State Commission on Judicial Conduct concluded a review of the allegations against the Honorable W. Jeanne Meurer, formerly Judge of the 98<sup>th</sup> Judicial District Court of Travis County, Texas.<sup>1</sup> Judge Meurer was advised by letter of the Commission's concerns and provided a written response. Judge Meurer appeared with counsel before the Commission on February 18, 2010, and gave testimony. After considering the evidence before it, the Commission entered the following Findings and Conclusion:

**FINDINGS OF FACT**

1. At all times relevant hereto, the Honorable W. Jeanne Meurer, was Judge of the 98<sup>th</sup> Judicial District Court in Austin, Travis County, Texas.
2. On August 26, 2008, an initial detention hearing took place before Judge Meurer at the Gardner-Betts Juvenile Detention Center, in a case involving E.Y., a juvenile who had been arrested the night before for allegedly assaulting her mother.
3. Those present for the hearing included E.Y., her mother, her brother and sister-in-law, a CPS<sup>2</sup> supervisor and caseworker, a CASA<sup>3</sup> supervisor, a Casey Family Program CPS Reintegration Project Coordinator, a Texas Family Support Services parent coach and

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<sup>1</sup> Judge Meurer served as Judge of the 98<sup>th</sup> Judicial District Court of Travis County, Texas, from 1989 through December 31, 2008, at which time she retired. Judge Meurer is currently eligible to sit by assignment pursuant to Texas Government Code, Sec. 74.054.

<sup>2</sup> Child Protective Services (CPS) is a division of the Texas Department of Family and Protective Services. At the time of the hearing, E.Y. was a foster child in the temporary custody of TDFPS and had recently been returned to her mother's possession as part of the Casey Family Program CPS Reintegration Project.

<sup>3</sup> CASA is the acronym for the Court Appointed Special Advocate Program, a non-profit organization whose voluntary participants advocate on behalf of children who are involved in legal proceedings.

mentor, the Assistant District Attorney, probation officers, E.Y.'s public defender, and E.Y.'s attorney in the CPS case.

4. Shortly after 1:20 p.m., the Assistant District Attorney announced the charge against E.Y.
5. After a brief discussion with E.Y., Judge Meurer sent the juvenile out of the courtroom and began questioning the remaining participants about their recommendations.
6. Initially, caseworkers discussed the pros and cons of a variety of options but appeared to believe detention was the more viable option until treatment services could be arranged and E.Y.'s psychological and medical needs could be evaluated. The caseworkers also indicated that they needed additional time to formulate a family safety plan for E.Y.'s eventual return home.
7. The initial recommendations were based in large part on the request of E.Y.'s mother, who, fearing more violent outbursts, wanted her daughter's medication reevaluated by a psychiatrist before E.Y. returned home. The caseworkers also attempted to explain the difficulties in finding a psychiatrist who could immediately assess E.Y., and their disagreement over whether E.Y.'s medication needed to be addressed at all.
8. According to numerous witnesses, as the caseworkers attempted to explain their concerns and recommendations, Judge Meurer became visibly angry and motioned for the court reporter to start recording the proceedings.
9. On the record, Judge Meurer angrily stated her belief that the caseworkers were only recommending detention for the sake of expedience and their own convenience.
10. Judge Meurer further registered her disapproval of the recommendation to detain E.Y. by telling the caseworkers, "Before I do that, each of you will spend three hours in this locked cell. You go in there and you be striped [sic] searched. And you spend three hours in this locked facility..."
11. The judge reiterated her intention to have the caseworkers appreciate the consequences of their recommendation shortly thereafter by stating, "...you go spend three hours down there and you be locked up. Each of you do it..." Judge Meurer went on to ask: "Any of you been to jail?"
12. The judge added, "I want this transcribed. This may be one that I give to the *Statesman*."
13. Before taking a five minute recess, Judge Meurer told the parties to come back and "tell me the honest truth and quit making up these stories" and to stop "us[ing] this Court."
14. After the recess, the caseworkers and E.Y.'s mother communicated to the court that they recommended that E.Y. return home with a safety plan.
15. At approximately 2:15 p.m., Judge Meurer asked everyone who had originally recommended detention for E.Y. to raise their hands. After counting the raised hands, the judge directed her bailiff as follows:

"This case will be recessed until 2:45, at which time I will reconvene with a decision. Each of you ... are to go back into detention. Detention, you are to have six different cells, and you are to put them in that cell and just let them sit there until 2:45. Tell me if this is where you want this child to be... You're to see what it's like to be locked up... I want the mother to experience what it's like for the daughter to be locked up... [P]lease follow Mr. Serna (bailiff) in."
16. The CPS caseworker and her supervisor, the CASA volunteer, the Casey Family Program CPS Reintegration Project Coordinator, the Texas Family Support Services parent coach and

mentor, and E.Y.'s mother were then escorted down a hallway to a secured holding area, where they were placed in small, locked intake cells for approximately 20 minutes.

17. The parties returned to the courtroom at approximately 2:45 p.m., at which time Judge Meurer addressed their detention experience by saying: "This is not punishment; this is helping people understand that jail is not a tool and that the deprivation of liberty is a frightening experience. And it's a degrading experience."
18. The judge went on to explain that "[y]ou would not have wanted me to leave you there for 24 hours as a way to appease my temper..."
19. After another recess, the District Attorney's Office announced that it was going forward with the assault charge against E.Y. Thereafter, the parties re-urged the recommendation they had made just prior to their detention that E.Y. be returned to her mother with a safety plan in place.
20. Judge Meurer accepted the recommendations, and concluded the hearing with the following commentary: "For those of you who I've worked with, I would ask to speak with you [in chambers]. If you care not to, that's your decision. Those of you who know me, know exactly what I did and why. For those of you who don't and are angry, I'm sorry."
21. In her written and oral testimony before the Commission, Judge Meurer acknowledged that the initial recommendation for detention surprised, angered, frustrated, and disappointed her; however, she did not believe that her treatment of the participants was rude or discourteous.
22. The judge went on to explain that although she did let her anger affect her demeanor, since her intent was to "achieve a settlement," her actions were "within [her] authority."
23. The judge further described how, after the detention, she took on a more "professional and supportive tone" and invited the participants to meet with her in chambers for a "more intimate heart-to-heart discussion of feelings."
24. Judge Meurer denied that she "ordered" the detention and stated that she did not believe that any of the participants had actually been "detained."
25. Moreover, according to the judge, it had not been her intention to have the participants locked up; she did not "order" the cell doors to be locked; she did not believe that the cell doors had been locked; it was her belief that the detainees had always been free to refuse to follow the bailiff into the detention cells; it was her belief that, once placed in the cells, the detainees could have left at any time.
26. Despite Judge Meurer's stated understanding of the incident, the detainees all believed that they had no choice in the matter of their detention as none had been offered the opportunity to refuse to be detained and all understood the judge's instructions to the bailiff to be an order of the court.
27. Additionally, according to an officer who was present at the hearing, the cell doors had, in fact, been locked based on his understanding of the judge's instructions and her use of the term "locked up" at various times in connection with the parties' detention.
28. In her oral testimony before the Commission, Judge Meurer conceded that she had no legal authority to order any of these individuals held for any period of time in juvenile detention cells.
29. In her written and oral testimony before the Commission, Judge Meurer indicated her remorse for the actions she had taken on August 26<sup>th</sup>.

30. Further, the judge expressed regret that not all of the participants had accepted the apology she made at the conclusion of the detention hearing.
31. The incident involving the August 26<sup>th</sup> detention was the subject of an August 30, 2008 article in the *Austin American Statesman*.

### **RELEVANT STANDARDS**

1. Article V, §1-a(6)A of the Texas Constitution states that a judge may be disciplined or removed from office for a willful violation of the Texas Code of Judicial Conduct, or for willful or persistent conduct that is clearly inconsistent with the proper performance of [her] duties or casts public discredit upon the judiciary or administration of justice.
2. Canon 2A of the Texas Code of Judicial Conduct states, in pertinent part: “A judge shall comply with the law . . . .”
3. Canon 3B(4) of the Texas Code of Judicial Conduct states, in pertinent part: “A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity...”

### **CONCLUSION**

The Commission concludes, based on the facts and evidence before it, that Judge Meurer failed to comply with the law and failed to be patient, courteous and dignified in her dealings with the participants in the August 26, 2008 hearing. Specifically, Judge Meurer willfully violated Canons 2A and 3B(4) of the Texas Code of Judicial Conduct by allowing her anger and frustration with the concerns and recommendations of the caseworkers and the juvenile’s mother to interfere with her judgment. As a result, seven adults were briefly, but unlawfully detained in locked cells at the Gardner-Betts Juvenile Detention Center. Each one of those detainees reasonably perceived that this extreme action was punishment for making a recommendation with which Judge Meurer disagreed. While the judge’s stated intention may have been commendable and her frustration understandable, her decision to execute that intent and “appease her anger” and frustration by having her bailiff lock these participants in juvenile detention cells was an abuse of Judge Meurer’s authority and cannot be condoned. The facts and circumstances surrounding this incident simply do not justify the rare circumstance in which such an extraordinary and extreme exercise of judicial power would ever be warranted. As further demonstrated by the change in her tone and demeanor immediately following the detention, Judge Meurer knew, or should have known, that her actions were excessive, did not comply with the law, did not show respect for the law, and did not promote public confidence in the judiciary’s integrity and impartiality. As such, her actions constituted willful conduct that was clearly inconsistent with the proper performance of her judicial duties, and cast public discredit upon the judiciary and administration of justice in violation of Article V, §1-a(6)A of the Texas Constitution.

In mitigation, the Commission notes that the judge (a) recognized that she had no authority to detain these individuals and (b) has been cooperative and contrite before the Commission.

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In condemnation of the conduct described above that violated Canons 2A and 3B(4) of the Texas Code of Judicial Conduct, and Article V, sec. 1-a(6)A of the Texas Constitution, it is the Commission's decision to issue a **PUBLIC ADMONITION** to the Honorable W. Jeanne Meurer, Former Judge of the 98<sup>th</sup> Judicial District Court, Austin, Travis County, Texas.

Pursuant to the authority contained in Article V, § 1-a(8) of the Texas Constitution, it is ordered that the conduct described above be made the subject of a **PUBLIC ADMONITION** by the State Commission on Judicial Conduct.

The Commission takes this action in a continuing effort to protect public confidence in the judicial system, and to assist the state judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Code of Judicial Conduct.

Issued this 30th day of March, 2010.

**ORIGINAL SIGNED BY**

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Honorable Jorge C. Rangel, Chair  
State Commission on Judicial Conduct



**BEFORE THE  
STATE COMMISSION ON JUDICIAL CONDUCT**

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**CJC Nos. 08-0085-MU, 08-0528-MU & 08-0274-MU**

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**PUBLIC REPRIMAND  
AND  
ORDER OF ADDITIONAL EDUCATION**

**HONORABLE JOE HENRY GARZA  
LA JOYA MUNICIPAL COURT  
LA JOYA, HIDALGO COUNTY, TEXAS**

During its meeting on December 9-11, 2009, the State Commission on Judicial Conduct concluded a review of the allegations against the Honorable Joe Henry Garza, Justice of the Peace, Precinct 2, La Joya, Hidalgo County, Texas. Judge Garza was advised by letter of the Commission's concerns and provided written responses. Judge Garza appeared with counsel before the Commission on December 10, 2009, and gave testimony. After considering the evidence before it, the Commission entered the following Findings and Conclusions.

**FINDINGS OF FACT**

1. At all times relevant hereto, the Honorable Joe Henry Garza was Judge of the Municipal Court in La Joya, Hidalgo County, Texas.
2. At all times relevant hereto, Judge Garza was also employed as the court coordinator of the La Joya Municipal Court.

**CJC Nos. 08-0085-MU & 08-0528-MU**

**Rolando Garcia**

3. In July of 2007, Rolando Garcia (hereinafter "Rolando") received two traffic citations for failure to maintain financial responsibility and for "unauthorized equipment" (hereinafter the "original traffic citations"), and was directed to appear in Judge Garza's court on or before July 26, 2007.
4. When Rolando failed to appear in court on his appearance date, Judge Garza issued a warrant for Rolando's arrest, and opened a third case against Rolando for "violate promise to appear" that same day, but never filed a criminal complaint against Rolando for that offense and never notified Rolando of the charge.

5. On July 27, 2007, Rolando appeared in court, and at that time was told that a warrant had been issued for his arrest, and that he owed a total of \$900.00 in fines for the three charges that were pending against him.
6. Judge Garza dismissed the two original traffic citations on an oral motion of the prosecution, and allowed Rolando to enter a “no contest” plea to the “violate promise to appear” charge.
7. Judge Garza orally advised Rolando that his fine in the “violate promise to appear” case was \$300.00, and verbally ordered him to “appear in court” on August 9, 2007, to pay the fine.
8. Judge Garza did not issue a written judgment of conviction on the “violate promise to appear” offense, and did not issue any written orders directing Rolando to appear in court on August 9, 2007.
9. Rolando was unable to appear in court on August 9, 2007, and contacted the court by telephone in an unsuccessful attempt to obtain an extension of time to pay his fine.
10. On the morning of August 10, 2007 at 11:08 a.m., the court opened an additional case against Rolando for the offense of “failure to appear/bail jumping.”
11. Later that afternoon, Rolando arrived at the courthouse and attempted to pay the \$300.00 fine in the “violate promise to appear” case, but was told that he now owed an additional \$300.00 fine in the “failure to appear/bail jumping” case.
12. Rolando requested an extension of time to pay the additional \$300.00 fine, explaining that his “financial situation” did allow him to make the payment that day.
13. Judge Garza denied his request and advised him that he would be incarcerated until he could pay the fine, and would be given a \$50.00 credit for each day that he was incarcerated.
14. Judge Garza then ordered an officer to come to the courthouse at 3:08 p.m., to arrest Rolando on the warrant for his “failure to appear.”
15. Judge Garza, however, failed to issue a criminal complaint against Rolando charging him with this additional offense prior to his arrest and did not give Rolando the opportunity to enter a plea to this offense. In addition, Judge Garza did not conduct an indigency hearing and/or making any findings regarding Rolando’s financial status before he incarcerated Rolando based on his inability to pay his fine.

16. Rolando was incarcerated in the city jail for four hours, and was released after signing a bond document indicating that he had been charged with the offense of “warrants,” and after posting a \$603.00 cash bond. The bond document also included a plea form, which Judge Garza printed out shortly before Rolando’s arrest, indicating that Rolando would forfeit his cash bond if he did not appear for a hearing set for August 16, 2007.
17. Rolando’s two cases were “closed” on August 16, 2007, when he did not appear on his scheduled court date. Judge Garza, however, did not issue a written judgment of conviction and/or any final orders in either matter.

**Salvador Garcia and Margarito Maldonado**

18. After learning that Rolando had been incarcerated on August 10, 2007, several of his family members arrived at the courthouse, including his father, Salvador Garcia (“Salvador”), and his sister’s fiancé, Margarito Maldonado (“Maldonado”).
19. When Salvador entered the courthouse lobby, he spoke to court personnel located in an office area behind two glassed-in windows, and inquired about his son’s incarceration.
20. Judge Garza was in the office area, along with other court personnel, when Salvador began speaking to one of his clerks, using what Judge Garza described as “vulgar” language.
21. Judge Garza identified himself to Salvador and tried to explain what had occurred in Rolando’s case.
22. According to Judge Garza, Salvador continued using vulgar language and would not respond to his warnings to be quiet. As a result, Judge Garza summoned a La Joya police officer to the courthouse.
23. Judge Garza testified that the officer who arrived on the scene, Pft. Cosme A. Muniz III, made the decision to arrest Salvador, and was responsible for mistakenly “filing” a charge against Salvador for “contempt of court,” rather than for “disorderly conduct.
24. Judge Garza, however, was not able to provide a copy of a complaint or any other charging document filed by the police department against Salvador, and Officer Muniz’s arrest report indicates that Judge Garza ordered Salvador arrested for contempt of court.
25. Judge Garza did not issue any written order or findings of contempt and/or any written commitment order either before or after Salvador’s arrest.
26. Salvador was incarcerated in the city jail for four hours, and was released upon signing a document entitled “personal bond,” indicating that he had been charged with the offense of “contempt of court,” and that he was being released on a personal recognizance (“PR”) bond, upon his promise to appear in court on August 17, 2007. Salvador thereafter appeared in court on August 17, 2007, at which time he pled *nolo contendere* to the contempt charge and paid a fine of \$50.00.
27. After Salvador was arrested, Rolando’s other family members remaining in the court lobby, including Maldonado, questioned why Salvador had been arrested.
28. According to statements provided by the four remaining family members, Judge Garza told all of them to either “be quiet” or to “shut up,” and threatened to order all four of them placed under arrest.

29. When Maldonado questioned Judge Garza about the propriety of his threat, Judge Garza warned him that if he did not remain quiet and/or leave the building, he would be arrested.
30. As Maldonado was attempting to leave the building, he was arrested by La Joya police officer, Sgt. Carlos Zamarron.
31. Judge Garza testified that Sgt. Carlos Zamarron made the decision to arrest Maldonado based on his personal observations of him, and was responsible for mistakenly “filing” a charge against Maldonado for “contempt of court,” rather than for “disorderly conduct.”
32. Judge Garza, however, was not able to provide a copy of a complaint or any other charging document filed by the police department against Maldonado, and Officer Zamarron’s arrest report indicates that Judge Garza ordered Maldonado placed under arrest for contempt of court.
33. Judge Garza did not issue any written order or findings of contempt and/or any written commitment order either before or after Maldonado’s arrest.
34. Maldonado was incarcerated in the city jail for four hours, and was released upon signing a document entitled “personal bond,” indicating that he had been charged with the offense of “contempt of court,” and that he was being released on a PR bond, upon his promise to appear in court for a hearing on August 16, 2007.
35. Although Maldonado requested a trial in the matter, when he later appeared for his court hearing, Maldonado was required to pay a \$100.00 fine at the hearing, and his case was then “closed.”

## **CJC No. 09-0274-MU**

### **Contempt Cases**

36. On various instances beginning in May of 2007, Judge Garza held at least eight individuals in contempt of court without legal authority for doing so. Further, in each instance, Judge Garza ordered the individuals arrested and placed in the city jail, where most remained for at least four hours before they were able to post cash-only bonds, as required by the judge. In most instances, Judge Garza failed to issue a written order or finding of contempt either before or after order the individual was incarcerated.
37. In one instance, Judge Garza held 70-year old Lamar Castaneda in contempt of court for refusing to answer a question on an application for indigency status, and ordered him incarcerated for four hours until he posted a \$488.00 cash bond.
38. In two other instances, Judge Garza held two defendants, Hector Marez and Perla Garza, in contempt of court when they stated that they either “might” or “would” not return to court after he found that them in violation of the court’s dress code, and ordered them to go home to change their clothes. One defendant was arrested and incarcerated for six hours until she posted a \$100.00 cash bond. The other defendant was incarcerated for four hours until he was released on a PR bond.
39. In another instance, Judge Garza, who was not present in the courthouse at the time, ordered the arrest of an Claudia Garza (“Claudia”) in the court lobby after his court staff telephoned him to report that Claudia was being “rude” to his court staff and using “vulgar” language. According to a police incident report, the officers who arrived on the scene spoke with Judge Garza by telephone after they arrived, and the judge ordered them to arrest Claudia for “contempt of court.”

40. Judge Garza, however, testified that he did not order the officers to arrest Claudia for contempt of court, as he was not present in the courthouse at the time, and instead directed them to charge her with “disorderly conduct.” Although the judge blamed the officers for mistakenly “charging” Claudia with this offense, he was not able to provide a copy of a complaint or other charging document filed by the police department charging Claudia with any criminal offense.
41. After Claudia spent four hours in the city jail, she was released upon signing a bond document reflecting that she had been charged with “contempt of court.”
42. In another instance, Francisco Eloy Salinas, a traffic defendant, approached Judge Garza and a group of police officers standing outside the municipal court building, which was closed due to a power outage, and stated that he wanted to pay his ticket that day despite the power outage.
43. When Judge Garza advised him that the court was closed and that he could not pay his ticket that day, Salinas made a comment that offended Judge Garza, and he thereafter threatened to arrest Salinas if he said anything else of that nature. Judge Garza then asked Salinas if he understood what he had said, and Salinas failed to answer him, Judge Garza ordered him arrested for contempt of court by two nearby police officers, and Salinas was thereafter incarcerated for four hours until he was released upon posting a \$100.00 cash bond.
44. In another instance, Judge Garza ordered Yolanda Guajardo arrested for contempt of court, after she allegedly showed up late for her 17-year-old son’s truancy hearing, which had been scheduled to begin at 8:30 a.m. that morning.
45. Although Judge Garza testified that he found her in contempt of court for being “disruptive,” his testimony contradicted the police report and an affidavit that Guajardo made to the arresting officers. Further, Judge Garza failed to issue any findings to the effect that Guajardo was “disruptive” at the time of her arrest.
46. Guajardo subsequently spoke about her arrest with a local television crew, complaining about Judge Garza’s conduct, causing the incident to receive local media coverage.
47. In another instance, Judge Garza had verbally ordered 17-year old Eva Comacho to attend school and thereafter allowed her mother to bring Comacho to court for a “hearing,” because she believed Comacho was not attending school and was causing disciplinary issues.
48. Neither Judge Garza nor the school sent Comacho any prior notice to appear in court on this particular day, and the record reflects that Comacho was in court solely at her mother’s request.
49. Judge Garza testified that he routinely schedules “hearings” in truancy cases at the request of parents that believe their child is not attending school and/or is not otherwise obeying the court’s prior orders.
50. At the hearing, Comacho’s mother requested that Judge Garza either arrest Comacho or order her to “boot camp.” Because he had no authority to order Comacho to boot camp, he verbally ordered Comacho arrested for failing to obey his prior verbal orders.
51. Although Judge Garza testified during his appearance that he ordered Comacho arrested because she was continuously interrupted him and used “vulgar” language, the police report contradicts Judge Garza’s testimony, and the judge did not issue any written findings regarding Comacho’s allegedly inappropriate conduct.

52. Pursuant to the judge's verbal orders, as reflected in his docket sheet, Comacho was incarcerated in the city jail for three days and ordered to pay a \$100.00 fine.
53. In a similar instance, Judge Garza ordered the arrest and incarceration of another 17-year old student, Cecilia Zuniga ("Cecilia") who he had previously verbally ordered to attend school when she was still sixteen years old
54. Shortly after Cecilia turned seventeen, Cecilia was brought to court by her parents, and without any prior written notice to her and/or without issuing a notice to show cause, Judge Garza found Cecilia in contempt of court for failing to attend school, and ordered her incarcerated for three days in the city jail, and imposed a \$100.00 fine on her.
55. Finally, on this same day, Judge Garza also ordered the arrest of another seventeen year old, Ariana Plascencia ("Ariana") who was brought to court by her father, who complained that she was not attending school in accordance with the judge's prior verbal orders to attend school. Prior to the hearing, the judge did not issue a written notice of the hearing and/or an order to show cause warning her that she could be found in contempt at the hearing.
56. Before her incarceration, the judge signed a commitment order indicating that she had been charged with the offense of "contempt of court," and ordered Ariana, who was pregnant at the time, confined for three days in the city jail, in addition to imposing a \$100.00 fine.

#### **Telephone Confiscations**

57. In several cases involving truancy defendants, including the case of Angela Pena ("Pena"), Judge Garza orally placed defendants on deferred disposition, and as a condition thereof, ordered them to relinquish their cell phones to the court, advising them that their phones would only be returned when they were able to "prove to their court" that their court attendance and their grades were in compliance with "state requirements."
58. Judge Garza acknowledged that when he took the cell phones from the truancy defendants, he did not issue written orders, and did not give the defendants written receipts and/or any other documentation indicating that the court had possession of their cell phones.
59. Judge Garza testified that he directed his court staff keep track of the phones by placing "sticky notes" on them, containing the students' names and school identification numbers, as well as the dates on which the phones were taken.
60. All of the phones were stored in a desk drawer in his office, and Judge Garza acknowledged that at one point in time he had at least fifteen (15) other cell phones belonging to truancy defendants in his desk, some of which had been there for over two years.
61. Judge Garza retained Angela Pena's phone for over a year, despite repeated requests from her grandmother seeking the return of her phone, and despite the fact that she filed a police report regarding the incident.
62. Judge Garza testified that his office had started the process of attempting to contact the various truancy defendants whose phones had been taken so that their personal property could be returned to them. The judge could not recall, however, whether Pena's cell phone had been returned to her.

### **Emergency Protective Orders**

63. Judge Garza issued emergency protective orders against two defendants who were charged with offenses involving family violence. In both cases, the judge ordered the defendants to attend anger management classes at a particular counseling facility chosen by the judge. In addition, in one of the orders, Judge Garza ordered the defendant to “register and attend drug rehabilitation counseling” as well.
64. Judge Garza also issued several other emergency protective orders in which he set a weekly visitation schedule for a defendant to see his children; directed at least two defendants to make temporary spousal and child support payments; and ordered a defendant to relinquish possession of a pickup truck to the defendant’s wife.
65. Judge Garza could not cite to any specific provision in the law that would allow a municipal judge to issue such orders, but expressed his opinion that the Texas Family Code allowed him to make temporary support orders if they were in the “best interest” of a child.

### **Cases Involving Family Members**

66. Beginning in September 2007, Judge Garza presided over at least two cases involving his relatives, Joshua and Michael Alaniz.
67. Judge Garza was asked to describe what “familial relationship,” if any, he had with the Alaniz brothers, to which he replied: “As a judge, I do not have a relationship with either Joshua or Michael Alaniz.”
68. During his informal appearance before the Commission, however, Judge Garza testified that Joshua and Michael Alaniz were the children of his first cousin, Michael Alaniz, who, as the La Joya City Manager, is also the immediate supervisor of Judge Garza when the judge serves in the capacity of court coordinator.
69. In both instances, Judge Garza magistered the defendants on charges of public intoxication, and released one defendant without setting a bond, and released the other defendant on a PR bond.
70. Although both defendants failed to appear for their court hearings, Judge Garza did not file any additional charges against them, but did issue warrants for their arrest.
71. When the defendants eventually appeared in court months later, Judge Garza cleared the warrants, and dismissed one of the defendant’s cases based on a verbal motion to dismiss made by the prosecutor, without issuing a written order of dismissal.
72. Judge Garza orally placed the other defendant on deferred disposition, and although the record does not contain any documentation that the defendant completed the terms of his deferred disposition, Judge Garza subsequently dismissed his case, but failed to issue a written order to that effect.

### **RELEVANT STANDARDS**

1. Canon 2A of the Texas Code of Judicial Conduct states, in pertinent part: “A judge shall comply with the law. . . .”
2. Canon 2B of the Texas Code of Judicial Conduct states, in pertinent part: “A judge shall not use the prestige of judicial office to advance the private interests of the judge or others.”

3. Canon 3B(1) of the Texas Code of Judicial Conduct states: “A judge shall hear and decide matters assigned to the judge except those in which disqualification is required or recusal is appropriate.”
4. Canon 3B(2) of the Texas Code of Judicial Conduct states, in relevant part: “A judge should be faithful to the law and shall maintain professional competence in it.”
5. Canon 3B(5) of the Texas Code of Judicial Conduct states, “A judge shall perform judicial duties without bias or prejudice.”
6. Article V, section 1-a(6)A of the Texas Constitution states, in relevant part that a judge may be disciplined or removed from office for incompetence in performing the duties of the office.

### CONCLUSIONS

The Commission concludes from the facts and evidence presented that Judge Garza failed to follow the law and failed to maintain professional competence in the law, in violation of Canons 2A, 2B, 3B(1), 3B(2), and 3B(5) of the Texas Code of Judicial Conduct, and Article V, section 1-a(6)A of the Texas Constitution, in the following instances: (1) finding numerous individuals in contempt of court without any legal authority for doing so, and thereafter ordering them arrested and incarcerated without first issuing a written finding of contempt and/or a written commitment order; (2) requiring defendants to post “cash only” bonds, in violation of Article 17.02 of the Texas Code of Criminal Procedure; (3) dismissing citations without a written motion from the prosecutor; (4) failing to reduce orders of deferred disposition and other orders and judgments to writing; (5) ordering the arrest of and incarceration of defendants for contempt of court orders that were issued when the defendants were sixteen years old, in violation of Article 45.050 of the Code of Criminal Procedure; (6) ordering truancy defendants to relinquish their cell phones to the court as a condition of deferred disposition, without legal authority for doing so, and thereafter retaining them for a period in excess of 180 days; (7) holding contempt hearings in truancy cases at the request of parents, without prior notice to the truancy defendants and/or without any documentation of school attendance from the school district; (8) issuing emergency protective orders containing directives outside the scope of the judge’s legal authority; (9) directing defendants to attend anger management courses at an institute of the judge’s choosing; (10) presiding over two matters involving family members, who were the sons of his immediate supervisor, in which he gave them favorable treatment; and (11) engaging in sloppy and inadequate recordkeeping procedures.

In addition, in Rolando Garcia’s case, Judge Garza acted improperly by: (1) charging Rolando with the offense of “failure to appear/bail jumping” after Rolando failed to pay a fine, rather than issuing a *capias pro fine* warrant for his arrest; (2) failing to issue a written complaint and/or other charging document against Rolando for the “failure to appear/bail jumping” offense; (3) failing to give Rolando the opportunity to enter a plea to that charge prior to his incarceration; and (4) ordering Rolando incarcerated until he could pay the fine without first holding an indigency hearing, as required by Article 45.046 of the Texas Code of Criminal Procedure.

In mitigation, the Commission recognizes that Judge Garza has recently taken steps to correct some of these deficiencies, and in particular, has recently been more cautious in the use of his contempt powers during the past twelve months; now issues written orders in all cases in which he places defendants on deferred disposition, and is currently engaged in efforts to return the confiscated cell phones to their rightful owners. Judge Garza also testified that he now

reduces all of his orders and judgments to writing, and has attempted to document his actions in the court's files in more detail.

In reaching its decision, the Commission also notes that Judge Garza initially provided misleading and incomplete information to the Commission in his sworn written responses, and provided oral testimony that contradicted court records supplied to the Commission. Judge Garza's lack of cooperation in this regard proved to be an aggravating factor in reaching a final decision in this case.

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In condemnation of the conduct described above that violated Canons 2A, 2B, 3B(1), 3B(2) and 3B(5) of the Texas Code of Judicial Conduct, and Article V, section 1-a(6)A of the Texas Constitution, it is the Commission's decision to issue a **PUBLIC REPRIMAND AND ORDER OF ADDITIONAL EDUCATION** to the Honorable Joe Henry Garza, Judge of the Municipal Court, La Joya, Hidalgo County, Texas.

Pursuant to this Order, Judge Garza must obtain **twenty (20) hours** of instruction with a mentor, in addition to his required judicial education. In particular, the Commission desires that Judge Garza receive this additional education in the following areas: (a) the limits of a court's authority to find an individual in contempt of court and/or to order the arrest of individuals for disorderly conduct; (b) the proper procedures to be followed in both direct and indirect contempt cases; (c) the proper procedures to be followed in cases involving deferred disposition; (d) the proper procedures to be followed in scheduling hearings in truancy matters; (e) the proper procedures to be followed when a defendant violates a promise to appear and/or fails to timely comply with a previously imposed judgment; (f) the procedures to be followed when a defendant is unable to make a fine payment; (g) the proper procedures to be followed before dismissing a pending criminal case; (h) proper bond setting procedures; (i) the limits of a municipal court's jurisdiction when issuing emergency protective orders; and (j) proper record-keeping practices.

Judge Garza shall complete the additional **twenty (20)** of instruction recited above within **one-hundred and twenty (120) days** from the date of written notification of the assignment of a mentor. It is Judge Garza's responsibility to contact the assigned mentor and schedule the additional education.

Upon the completion of the **twenty (20) hours** of instruction described herein, Judge Garza shall sign and return the Respondent Judge Survey indicating compliance with this Order. Failure to complete, or report the completion of, the required additional education in a timely manner may result in further Commission action.

Pursuant to the authority contained in Article V, §1-a(8) of the Texas Constitution, it is ordered that the actions described above be made the subject of a **PUBLIC REPRIMAND AND ORDER OF ADDITIONAL EDUCATION** by the Commission.

The Commission has taken this action in a continuing effort to protect public confidence in the judicial system and to assist the state's judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this 30th day of March, 2010.

**ORIGINAL SIGNED BY**

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Honorable Jorge C. Rangel, Chair  
State Commission on Judicial Conduct